

Appl. No. 10/627,558
Reply dated May 13, 2005
Reply to Office Action of January 13, 2005

REMARKS/ARGUMENTS

Claims 1-37 are presented for Examiner Sperty's consideration. Per the restriction requirement, Claims 25-35 are shown as "withdrawn" status claims. No claims are amended.

Pursuant to 37 C.F.R. § 1.111, reconsideration of the present application in view of the following remarks is respectfully requested.

Applicants thank Examiner Sperty for including in the Office Action mailed January 13, 2005 signed copies of the initialed Forms PTO-1449 sent with Applicants' Information Disclosure Statements (IDS) mailed October 28, 2003.

By way of Paragraphs 1-4 the Office Action mailed January 13, 2005 the Examiner restricted the claims to one of Group I (claims 1-24, 36 and 37) and Group II (claims 25-35). Applicants hereby affirm their December 16, 2004 telephonic election of Group I claims (claims 1-24, 36 and 37) and therefore the non-elected claims of Group II (claims 25-35) are designated herewith as "withdrawn" claims.

By way of Paragraphs 6 and 7 the Office Action mailed January 13, 2005 the Examiner rejected all elected claims (claims 1-24, 36 and 37) under 35 U.S.C. §102(b) as allegedly being anticipated by and thus unpatentable over U.S. Pat. No. 6,169,045 to Pike et al. (hereinafter "Pike et al. '045"). This rejection is hereby traversed to the extent it may apply to the currently presented claims.

The invention as claimed in claim 1 provides a nonwoven web including at least one side which is abrasion resistant, has a surface roughness of at least 20 μm , and has a fuzz-on-edge value less than 1.0 mm/mm.

The Pike et al. '045 reference relates to a lofty filter medium comprising a nonwoven fiber web of crimped fibers that can be spunbond fibers, and the filter medium has a density between about 0.005 g/cm³ and about 0.1 g/cm³ (please see Abstract). As the Examiner

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has also noted, the Pike et al. '045 reference discloses that conjugate polypropylene/polyethylene fibers can be used, and teach multilayer construction where individual layers can have different densities.

However, as the Examiner has also noted, the Pike et al. '045 reference is silent as to at least two elements of the Applicants' claims – the surface roughness of at least 20 μm , and a fuzz-on-edge value less than 1.0 mm/mm. The Examiner stated that Pike et al. '045 webs would inherently meet these two elements because it was made from the same materials and according to the same process.

Applicants disagree with the Examiner's position. As stated in M.P.E.P. §2112, "In relying upon the theory of inherency, the examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art." (citing *Ex parte Levy*, 17 USPQ2d 1461, 1464 (Bd. Pat. App. & Inter. 1990) (emphasis in original)). Applicants submit that neither the surface roughness element nor the fuzz-on-edge value element has been shown to necessarily flow from the Pike et al. '045 disclosure.

According to the teachings of the Pike et al. '045 disclosure, the process for forming those webs teaches that the fibers are to be deposited directly onto the forming surface, also called a foraminous forming surface in the Examples of Pike et al. '045 (please see Summary, Examples at column 9 beginning line 24, and the process description cited by the Examiner at column 6 beginning line 34). In contrast, in the process for forming the nonwoven of the invention, the fibers are specifically not deposited directly onto the forming surface, but instead are formed onto a liner material that has itself been placed onto the forming surface. After the fibers for the nonwoven web are deposited onto the liner, the liner and nonwoven web are bonded, and the liner is removed from the nonwoven web. Please see Applicants' specification Summary at page 2 lines 22-30, Detailed Description at page 12 lines 12-33, and page 14 line 25 through page 15. Therefore, Applicants respectfully submit that the Examiner's assertion that the materials of the Pike et al. '045 disclosure are made by the same process is simply not correct.

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Furthermore, Applicants wish to direct the Examiner's attention to the portion of their specification describing Example and Comparative 2 nonwoven web materials. For the purposes of the 35 U.S.C. §102(b) rejection over Pike et al. '045, note the Comparative 2 material is similar to the Pike et al. '045 materials at least because each is a conjugate fiber spunbond web formed by depositing the fibers directly onto the forming surface, instead of forming onto a liner material as taught by the Applicants. In this regard, the information in the Applicants' specification in Tables 2 and 3 (page 26) is relevant to further show that an assumption of inherency as to the elements of surface roughness and fuzz-on-edge value is not correct. As shown in Table 2, two pieces of the Comparative 2 material were tested and had fuzz-on-edge values, as reported by the average PR/EL measurement, of about 1.5 and 2.2 mm/mm, whereas the claims require the fuzz-on-edge value to be less than 1.0. In addition, Table 3 shows that the average surface roughness measurement S_a for Comparative 2 material was 17.9, whereas the claims require the surface roughness of at least 20 microns.

Therefore, because the Pike et al. '045 disclosure does not teach all of the parameters or elements of Applicants' claims as presented, and because the allegedly inherent characteristics do not necessarily flow from the teachings of the Pike et al. '045 reference, Applicants respectfully submit that the rejection of claims 1-24, 36 and 37 under 35 U.S.C. §102(b) should be withdrawn.

By way of Paragraph 8 of the Office Action mailed January 13, 2005, the Examiner rejected claims 1-13 and 36 under 35 U.S.C. § 102(b) as allegedly being anticipated by and thus unpatentable over U.S. Pat. No. 5,605,749 to Pike et al. (hereinafter "Pike et al. '749"), or alternatively under 35 U.S.C. § 103(a) as allegedly being obvious to one of ordinary skill in the art at the time the invention was made and thus unpatentable over Pike et al. '749. This rejection is hereby traversed to the extent it may apply to the currently presented claims.

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The invention as claimed in claim 1 provides a nonwoven web including at least one side which is abrasion resistant, has a surface roughness of at least 20 μm , and has a fuzz-on-edge value less than 1.0 mm/mm.

The Pike et al. '749 reference relates to an active agent impregnated nonwoven (please see Abstract). As the Examiner has noted, the Pike et al. '749 reference discloses that conjugate fibers can be used, a can have a density between about 0.01 g/cm³ and about 0.1 g/cm³.

However, the Pike et al. '749 reference (as with the Pike et al. '045 reference discussed above) does not appear to disclose at least two elements of the Applicants' claim 1 -- the surface roughness of at least 20 μm , and a fuzz-on-edge value less than 1.0 mm/mm. The Examiner noted that the Pike et al. '749 reference does state the web can have abrasion resistance, but the Examiner did not show the Pike et al. '749 reference to either explicitly or implicitly/inherently disclose the required surface roughness.

In addition, the Examiner noted that the Pike et al. '749 reference mentions low lint at column 5 lines 44-47 and stated that low lint anticipated the required fuzz-on-edge value, or, alternatively, would obviously have been provided by preparing the web in accordance with the specification and the web's intended use. Applicants again disagree with the Examiner's positions. The disclosure of low-lint at column 5 lines 44-47 of Pike et al. '749 does not appear to be more than a statement recognizing that continuous fiber webs are less likely to lose fibers (less likely to "lint") than short fiber (staple fiber) webs. Applicants point out that both their Example and Comparative 2 materials are continuous fiber webs, yet, as discussed above, the Comparative 2 material does not meet the required fuzz-on-edge value. In addition, Applicants point out that the Pike et al. '749 materials are disclosed to be produced in a similar fashion to those of Applicants' Comparative 2 material and those of the Pike et al. '045 reference discussed above; that is, by depositing the fibers directly onto a foraminous forming surface (please see Pike et al. '749 at column 9 lines 20-25). Therefore, Applicants respectfully submit that the Examiner's assertion that

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the low lint comment in Pike et al. '749 anticipates or makes obvious Applicants' required fuzz-on-edge value is simply not correct.

Therefore, because the Pike et al. '749 reference does not teach (or, alternatively, suggest) all of the parameters or elements of Applicants' claims 1-13 and 36, Applicants respectfully submit that the rejection of claims 1-13 and 36 under 35 U.S.C. §102(b) (alternatively under 35 U.S.C. § 103(a)) should be withdrawn.

For the reasons stated above, it is respectfully submitted that all of the claims are in form for allowance.

Please charge any prosecutorial fees which are due to Kimberly-Clark Worldwide, Inc. deposit account number 11-0875.

The undersigned may be reached at: 770-587-8908.

Respectfully submitted,

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CERTIFICATE OF FACSIMILE TRANSMISSION

I, Robert A. Ambrose, hereby certify that on May 13, 2005, this document is being faxed to the United States Patent and Trademark Office, central facsimile machine at (703) 872-9306.

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